

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

JOHN HANCOCK LIFE INSURANCE )  
COMPANY, JOHN HANCOCK )  
VARIABLE LIFE INSURANCE )  
COMPANY, and MANULIFE )  
INSURANCE COMPANY (f/k/a )  
INVESTORS PARTNER LIFE )  
INSURANCE COMPANY), )

*Plaintiffs,*

v.

ABBOTT LABORATORIES, )  
)  
*Defendant.* )

Civil Action No. 05-11150-DPW

**REQUEST FOR ORAL ARGUMENT**

**ABBOTT LABORATORIES' MOTION IN LIMINE TO EXCLUDE THE EXPERT  
TESTIMONY OF MR. ALAN FRIEDMAN**

Defendant Abbott Laboratories ("Abbott") hereby moves, pursuant to Federal Rules of Evidence 701-703, to exclude the testimony of Alan Friedman, who has been designated by Plaintiffs John Hancock Life Insurance Company, John Hancock Variable Life Insurance Company, and Manulife Insurance Company (f/k/a Investors Partner Life Insurance) (collectively, "Hancock") as an expert witness regarding damages.

Abbott seeks to exclude the testimony of Mr. Alan Friedman because his expert report is contrary to well-established Illinois law barring the recovery of lost profits for new businesses or products without established markets. Additionally, Mr. Friedman's report contains numerous analytical flaws and is not based on a reliable application of sound economic principles to the facts of the case. As a result, Mr. Friedman's testimony is unreliable and must be excluded pursuant to Federal Rules of Evidence 701-703.

In support of this Motion, Abbott relies upon the accompanying (a) Memorandum of Abbott Laboratories in Support of the Motion in Limine to Exclude Testimony of Mr. Alan Friedman, (b) the Affidavit of Eric Lorenzini and accompanying exhibits, and (c) the Affidavit of Keith Hendricks, all of which are being filed contemporaneously herewith.

WHEREFORE, Abbott respectfully requests that this Court grant Abbott's Motion in Limine to Exclude Testimony of Mr. Alan Friedman, and grant such further relief as this Court deems just and appropriate.

Dated: October 12, 2007

Respectfully submitted,

ABBOTT LABORATORIES

By: /s/ Michael S. D'Orsi  
Michael S. D'Orsi

One of its attorneys

Peter E. Gelhaar (BBO#188310)  
Michael S. D'Orsi (BBO #566960)  
DONNELLY, CONROY & GELHAAR LLP  
1 Beacon St., 33<sup>rd</sup> Floor  
Boston, Massachusetts 02108  
(617) 720-2880  
peg@dcglaw.com  
msd@dcglaw.com

and

Jeffrey I. Weinberger (*pro hac vice*)  
Gregory D. Phillips (*pro hac vice*)  
Eric J. Lorenzini (*pro hac vice*)  
Ozge Guzelsu (*pro hac vice*)  
MUNGER, TOLLES & OLSON LLP  
355 South Grand Avenue  
Thirty-Fifth Floor  
Los Angeles, CA 90071-1560  
Tele: (213) 683-9100

*Counsel for Abbott Laboratories*

**LOCAL RULE 7.1 AND 37.1 CERTIFICATION**

The undersigned hereby certifies that counsel for Abbott Laboratories raised in open court on September 20, 2007, the issues addressed in this Motion in a good faith effort to resolve or narrow the issues in this Motion, and the Court permitted Abbott Laboratories to file this Motion on that date.

\_\_\_\_\_  
/s/ Michael S. D'Orsi

Michael S. D'Orsi

**CERTIFICATE OF SERVICE**

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on October 12, 2007.

Date: October 12, 2007.

\_\_\_\_\_  
/s/ Michael S. D'Orsi

Michael S. D'Orsi